

May 2, 1979

LB 80

which was introduced by state Senator Danner in 1965 the original language did not have "intentional". That word was added later. Although there is no legislative history which directly concerns itself with why that was added, there is legislative history which indicates that the Unicameral was interested in protecting businesses from lawsuits based on accidental discrimination while this concept was new. A great deal of time has elapsed since 1965 to 1979. This is no longer a new concept. In other sections of our civil law we do not require the word "intentional", however, we do require proof that unlawful action has taken place. This is also true in LB 80 as it currently stands and the last point I would like to emphasize is that in both the federal and state laws regarding fair employment practice, primacy was given to conciliation and local resolution. Litigation was to be a last resort. That is all I have to say, Mr. Speaker.

SPEAKER MARVEL: Senator Nichol, do you wish to be recognized?

SENATOR NICHOL: Yes, Mr. Chairman. As chairman of Judiciary Committee this particular section was deleted by the committee and I heartily support Senator Duis in his recommendation. Senator Marsh, simply because two other states are the only two that don't have it doesn't necessarily make it true. After all there is only one state that has a unicameral and we haven't been going away for that for some fifty years or so. Secondly, when somebody like Sears and Roebuck with their vast majority of knowledge, legal counsel, whatever they have and it is adequate, cannot decide for themselves or cannot rule whether or not they are discriminating at times, I would hate to have a little store at West Point operated by Senator Hasebroock put under such a tremendous pressure to have him constantly on guard as to who he hires or anybody else. I am not concerned about Continental Can, Guarantee Mutual or any other insurance companies. They can handle a situation for themselves but as a small business person I don't think it is right to inflict this on the rest of the people in the State of Nebraska. Lastly, I would say this. Within the last five or six weeks the Office of Equal Opportunity itself, itself, was found guilty of discrimination and they had to reinstate somebody and make up back pay. When this office itself, itself, cannot make up its mind and run its own shop satisfactorily, I don't think we should be inflicting this on the other businesses in the State of Nebraska. I heartily recommend that we support Senator Duis in his amendment.